

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND/ODESSA DIVISION**

**PEAK FISHING SERVICES, LLC, FOR** §  
**ITSELF AND AS FIDUCIARY OF THE** §  
**PEAK FISHING SERVICES, LLC** §  
**EMPLOYEE BENEFIT PLAN,** §  
*Plaintiff,* §

§

**CIVIL ACTION NO. 7:20-cv-00211-DC**

§ § § §

**DEFENDANT ASSURED BENEFIT ADMINISTRATORS, INC.'S**  
**DISCLOSURE OF EXPERT TESTIMONY**

TO: Plaintiff Peak Fishing Services, LLC, For Itself and as Fiduciary of the Peak Fishing Services LLC Employee Benefit Plan, by and through its attorneys of record Michael Barnhart, SEILER MITBY, PLLC, 2700 Research Forest Drive, Suite 100, The Woodlands, Texas 77381, and Harper Estes, LYNCH, CHAPPELL AND ALSUP, 300 N. Marienfeld, Suite 700, Midland, Texas 79701.

Defendant Assured Benefit Administrators, Inc. serves its Disclosure of Expert Testimony pursuant to Federal Rule of Civil Procedure 26(a)(2).

## I. Specific Experts

Corporate representative  
Assured Benefit Administrators, Inc.  
c/o Thompson, Coe, Cousins & Irons, L.L.P.  
700 N. Pearl Street, 25<sup>th</sup> Floor  
Dallas, Texas 75201  
(214) 871-8200

Defendant's corporate representative will represent Defendant at trial and may testify as to Plaintiff's Employee Benefit Plan, Defendant's policies and procedures for Plan administration, whether Defendant complied with its policies and procedures in administration of the Plan, and Defendant's defenses. Defendant's corporate representative may also testify in rebuttal to Plaintiff's experts' opinions concerning the allegations that Defendant breached its duties with respect to its administration of the Plan and other subjects raised by Plaintiff's experts during

discovery or their depositions. Defendant's corporate representative may also testify as to his/her knowledge, skill, experience, training, and education relevant to this case. Defendant's corporate representative is expected to testify that Defendant complied with its policies and procedures for plan administration and did not violate any standards of care in its administration of the Plan.

## **II.**

### **Designation by Reference**

Defendant further designates any other witness identified by Plaintiff or any other party to this cause in answers to Interrogatories or in their designations of fact and expert witnesses. Further, Defendant reserves the right to call all custodians of records who have authenticated or otherwise furnished records pertaining to the claims which serve as the basis of this lawsuit and/or the Plaintiff. Additionally, there may be other individuals that become identified through any subsequent reports or through any of the subsequent investigations conducted by the parties to this litigation, all of whom Defendant reserves the right to call as expert witnesses in this litigation.

Defendant may also call as expert witnesses in this case any person who is identified as a person with knowledge of relevant facts and who is qualified by knowledge, skill, experience, training, or education to testify about scientific, technical, or other specialized knowledge that would assist the trier of fact to understand the evidence or to determine a fact in issue in this case.

## **III.**

### **Right to Examine or Cross-Examine**

Defendant reserves the right to cross-examine, elicit testimony from, and/or call as an expert witness, live or by deposition, any of the experts designated by Plaintiff or any other party in this case.

Defendant reserves the right to elicit testimony from, cross-examine, and/or use any expert testimony or lay opinion testimony that would assist the trier of fact in determining material issues of fact to the extent that same are considered expert opinions and/or testimony in accordance with the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

## **IV.**

### **Right to Call Adverse Witness**

Defendant may call, as adverse witness, all experts designated by any party to this case, even if the designating party is not a party to the case at the time of trial. In the event a present or future party designates an expert but then is dismissed or fails to call any designated expert, Defendant reserves the right to call any such expert as an adverse witness. Defendant reserves the right to elicit, by way of cross-examination, opinion testimony from experts designated and/or called by other parties to this case, including Plaintiff's designated experts. Notwithstanding such reservation however, Defendant does not concede or admit the admissibility of any such testimony with respect to the qualifications of the witness, and/or the evidentiary basis of any such testimony with respect to scientific reliability and/or relevance.

Defendant reserves the right to call to testify, as an adverse witness, any and all representatives of Plaintiff.

**V.  
Right to Withdraw**

Defendant reserves the right to withdraw the designation of any expert and to aver positively that any such previously designated expert will not be called as a witness at trial, and to re-designate the same as a consulting expert who cannot be called by opposing counsel.

**VI.  
Right to Substitute**

Defendant reserves the right to substitute any expert witness disclosed herein with a witness or witnesses of similar education, training, background and opinions, should such substitution be necessary by reason of the scheduling of the trial of the case, the health of any expert witness disclosed herein, other professional commitments of any expert witness disclosed herein, or any other matter requiring substitution.

**VII.  
Right to Rebuttal Witnesses**

Defendant reserves the right to call undesignated expert witnesses in rebuttal, if necessary, whose identities and testimony cannot be reasonably foreseen until all other parties to this suit have designated witnesses and/or presented evidence at trial.

**VIII.  
Right to Supplement or Amend**

Defendant reserves the right to supplement or amend this response within the time limits imposed by the Court or any alterations of same by subsequent court order or agreement of the parties, or pursuant to the Federal Rules of Civil Procedure and/or the Federal Rules of Evidence. Specifically, Defendant reserves the right to supplement these responses should Plaintiff or another party to this suit designate experts or provide discovery responses which would require Defendant to supplement this designation to avoid unfair prejudice at trial.

**IX.  
Additional Rights**

Defendant reserves any and all additional rights it may have with regard to expert witnesses and testimony under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, case law, and the rulings of this Honorable Court.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Rhian Jones  
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**ATTORNEYS FOR DEFENDANT ASSURED  
BENEFIT ADMINISTRATORS, INC.**

**CERTIFICATE OF SERVICE**

I certify that on December 1, 2021, a true and correct copy of the foregoing document was electronically served on all counsel of record via the Court's Electronic Case Filing system:

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**/s/ Rhian Jones**

Rhian Jones